

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 217 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME-TAX

Versus

AHMEDABAD MASKATI CLOTH DELAERS COMPANY

Appearance:

MR BB NAIK WITH MR MANISH R BHATT for Petitioner
SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.R.DAVE

Date of decision: 09/02/99

ORAL JUDGEMENT(Per J.N.Bhatt, J.)

By this reference, the Income tax Appellate Tribunal, Ahmedabad Bench 'A' has referred the following question for our opinion, invoking the provisions of section 256(1) of the Income Tax Act, 1961 :

"Whether the Income-tax Appellate Tribunal has

been right in law in holding that the income of the assessee is exempt u/s.80P(2)(e) of the I.T.Act, 1961 ?"

The respondent assessee is a co-operative Society and it claimed exemption in respect of its income under section 80P(2)(e) of the I.T.Act for the A.Y. 1978-79 and 1979-80, which came to be rejected by the I.T.O. for both the years by the order dated 16.2.81. The Appellate Assistant Commissioner in appeals, following the decision of the Tribunal in the case of the same assessee for the A.Y.1970-71 accepted the case of the assessee and the Appellate Tribunal confirmed the said order.

The common question is referred arising out of the two assessment years' orders as the two reference applications came to be consolidated by the Tribunal.

In fact, the present reference will not detain us any longer in view of the ratio propounded by this Court in Commissioner of Income Tax v. Ahmedabad Maskati Cloth Dealers Co-operative Society Limited, 162 ITR 142, wherein the same question in the case of the same assessee for the previous years has been decided against the assessee. We, therefore, do not propose to reiterate the reasons elucidated in the said decision as we are, broadly, in agreement with the same.

For the reasons stated in the earlier decision and the facts, as stated hereinabove, we answer the questions in negative, that is to say, in favour of the revenue and against the assessee. Accordingly, this reference shall stand disposed of without costs.

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